

HOUSE BILL 2804

By Chism

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 40, relative to diversion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-313(a)(1)(B)(i), is amended by deleting the subdivision and substituting instead the following:

(i) As used in this subsection (a), "qualified defendant" means a defendant who:

(a)

(1) Is found guilty of or pleads guilty or nolo contendere to the offense for which deferral of further proceedings is sought;

(2) Is not seeking deferral of further proceedings for any offense committed by any elected or appointed person in the executive, legislative, or judicial branch of the state or any political subdivision of the state, which offense was committed in the person's official capacity or involved the duties of the person's office;

(3) Is not seeking deferral of further proceedings for a sexual offense, a violation of § 39-15-502, § 39-15-508, § 39-15-511, or § 39-15-512, driving under the influence of an intoxicant as prohibited by § 55-10-401, vehicular assault under § 39-13-106 prior to service of the minimum sentence required by § 39-13-106, or a Class A or B felony;

(4) Has not previously been convicted of a felony or a Class A misdemeanor for which a sentence of confinement is served; and

(5) Has not previously been granted judicial diversion under this chapter or pretrial diversion; or

(b)

(1) Is found guilty of or pleads guilty or nolo contendere to the offense for which deferral of further proceedings is sought; and

(2) The offense for which deferral of further proceedings is sought is possession of less than one ounce (1 oz.) of marijuana, as defined in § 39-17-402.

SECTION 2. Tennessee Code Annotated, Section 40-35-313(a)(1)(A), is amended by deleting the language "The court may defer further proceedings against a qualified defendant" and substituting instead the language "Except as provided in subsection (e), the court may defer further proceedings against a qualified defendant, as defined in subdivision (a)(1)(B)(i)(a),".

SECTION 3. Tennessee Code Annotated, Section 40-35-313(a)(2), is amended by deleting the last sentence of the subdivision and substituting instead the following:

Discharge and dismissal under this subsection (a) may occur only once with respect to a qualified defendant, as defined in subdivision (a)(1)(B)(i)(a).

SECTION 4. Tennessee Code Annotated, Section 40-35-313, is amended by adding the following as a new subsection:

(e) The court shall defer further proceedings against a qualified defendant, as defined in subdivision (a)(1)(B)(i)(b), and place the defendant on probation upon such reasonable conditions as it may require without entering a judgment of guilty and with the consent of the qualified defendant. Except as otherwise provided in subdivisions (a)(2) and (a)(3)(C), the deferral shall proceed as provided in this section.

SECTION 5. Tennessee Code Annotated, Section 40-35-313(a)(3)(A), is amended by deleting the first sentence of the subdivision and substituting instead the following:

No order deferring further proceedings and placing a qualified defendant, as defined in subdivision (a)(1)(B)(i)(a), on probation as authorized by this subsection (a) may be entered by the court on or after July 1, 1998, unless there is attached to it a certificate

from the Tennessee bureau of investigation stating that the defendant does not have a prior felony or Class A misdemeanor conviction.

SECTION 6. Tennessee Code Annotated, Section 40-35-313(a)(3), is amended by adding the following as a new subdivision:

(C) The certificate provided by the bureau pursuant to subdivision (a)(3)(A) is not required if the court orders deferral of further proceedings and places a qualified defendant, as defined by subdivision (a)(1)(B)(i)(b), on probation.

SECTION 7. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to offenses committed on or after that date.